APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/062,102	01/31/2002	Cary Lee Bates	END920010052US1	9951

23550   7590   02/19/2009
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EXAMINER
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ART UNIT	PAPER NUMBER
2173	

NOTIFICATION DATE	DELIVERY MODE
02/19/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hoffmanwarnick.com

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/062,102	BATES ET AL.
	Examiner	Art Unit
	Blaine Basom	2173

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>02 February 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☒ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: *See Continuation Sheet.* (See 37 CFR 1.116 and 41.33(a).)

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

/Kieu D Vu/
Primary Examiner, Art Unit 2175

Continuation of 3. NOTE: The proposed amendments add, to each of independent claims 1, 9, 17, 21, and 23, the limitation, "wherein the method is adapted to allow selection of the second set of data that overlaps the first set of data." This limitation has not been previously incorporated (e.g. via a dependent claim) with the features of claims 17, 21, and 23. For example, no previous version of any claim entails a "method for selecting multiple sets of data in an application, the method comprising the steps of...selecting, in a distinctive manner, a portion of one of the selected sets of data in a same window of the application from which the selected sets were selected...wherein the method is adapted to allow selection of the second set of data that overlaps the first set of data," as is now recited in independent claim 17. Accordingly, further search and consideration is required.

Continuation of 11. does NOT place the application in condition for allowance because: The Applicants' arguments are not persuasive. The Applicants argue that Fleming (U.S. Patent No. 5,664,210 to Fleming et al.) and Habib (U.S. Patent No. 5,694,610 to Habib et al.) fail to teach the claimed methods, program product, and system, which are adapted to allow selection of the second set of data that overlaps the first set of data, as added by Applicants' amendments. In response, the Examiner respectfully submits that, since the proposed amendments have not been entered, the Applicants' arguments are considered moot. Regardless,the Examiner respectfully submits that, in the Final Office Action mailed on December 1, 2008, Habib was NOT relied on to teach the limitation, "wherein the method is adapted to allow selection of the second set of data that overlaps the first set of data." Instead, the Examiner presented the teachings of Hussam (PCT Application Publication No. WO 01/29701 A1 to Hussam). As noted on page 7 of the Final Office Action, Hussam teaches allowing a user to select multiple sets of data in an application, including allowing selection of a second set of data that overlaps a first set of data. The Examiner respectfully maintains this assertion, and thereby maintains that Fleming and Hussam, in combination, teach a method for selecting mutliple sets of data in an application, wherein the method is adapted to allow selection of the second set of data that overlaps the first set of data, as is now claimed.